

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

TRUE THE VOTE, ET AL.

PLAINTIFFS

V.

CIVIL ACTION NO. 3:14cv532-NFA

**THE HONORABLE DELBERT
HOSEMANN, in his official capacity
as Secretary of State for the State
of Mississippi, ET AL.**

DEFENDANTS

**SECRETARY OF STATE DELBERT HOSEMANN'S
RESPONSE IN OPPOSITION TO MOTION FOR
PRELIMINARY INJUNCTION**

Defendant Secretary of State Delbert Hosemann, in his official capacity as Secretary of State for the State of Mississippi, submits this Response in Opposition to plaintiffs' Motion for Preliminary Injunction [designated on the docket as Motion for Temporary Restraining Order, Docket No. 8] and states:

1. This lawsuit arises from events related to the June 24, 2014 run-off election between incumbent Thad Cochran and Chris McDaniel, that decided the Mississippi Republican Party's nominee for United States Senator in the Fall general election, and plaintiffs' alleged requests for documents from Mississippi Circuit Clerks concerning the election.

2. On July 9, plaintiffs filed their Motion for Temporary Restraining Order alternatively requesting preliminary injunctive relief the same day as their Complaint alleging two counts based on the National Voter Registration

Act's ("NVRA") provision for "public disclosure of voter registration activities," Public Law No. 103-31, Section 8(i), codified at 42 U.S.C. § 1973gg-6(i), and another count asserting a Fourteenth Amendment vote dilution claim targeting the run-off election.

3. Plaintiffs seek a preliminary injunction compelling the defendants to produce certain documents related to the June 24 run-off they claim to have requested under the NVRA, but were denied access, and to provide the documents without redacting any Mississippi voter's date of birth appearing in them.

4. On July 24, the Court conducted an evidentiary hearing, closed the record, and established a schedule for briefing the preliminary injunction issues.

5. Plaintiffs' requested relief should be denied because, for many reasons, they have not proven any likelihood of success on the merits, they would not be irreparably harmed in the absence of preliminary injunctive relief, the balance of harm favors the defendants, and the requested relief is not in the public interest.

6. Secretary Hosemann's opposition to plaintiffs' motion is based on the evidence accepted in the preliminary injunction record, testimony in the Hearing Transcript filed with the Court, and the foregoing points, as well as his Supporting Brief filed simultaneously with this Response.

7. Secretary Hosemann also submits the following exhibits attached hereto in support of his opposition, including Exhibits 1 through 5 which the Court specifically requested be included in the preliminary injunction record during the evidentiary hearing on July 24 (*see* Hearing Tr. 159:16 - 162:5):

EXHIBIT “1”: State-wide Voter Roll Exemplar;

EXHIBIT “2”: Absentee Ballot Application Exemplar;

EXHIBIT “3”: Absentee Ballot Envelope Exemplar;

EXHIBIT “4”: Federal Post Card Application Voter Registration and Absentee Ballot Request Exemplar;

EXHIBIT “5”: Sample Official Election Ballots for June 3 Party Primaries and June 24 Run-offs; and

EXHIBIT “6”: Order in *Texas Democratic Party v. Bettencourt*, No. 4:08-cv-03332 (S.D. Tex. July 16, 2009).

FOR THESE REASONS, and those set forth in his separately filed Supporting Brief, Secretary Hosemann respectfully requests that the Court enter an order denying plaintiffs’ Motion for Preliminary Injunction.

THIS the 8th day of August, 2014.

Respectfully submitted,

DELBERT HOSEMANN, in his
official capacity as Secretary of State
for the State of Mississippi

By: JIM HOOD, ATTORNEY GENERAL

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*Counsel for Delbert Hosemann, in his
official capacity as Secretary of State
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document has been filed with the Clerk of Court using the Court's ECF system and thereby served on all counsel of record who have entered their appearance in this action to date.

THIS the 8th day of August, 2014.

S/Justin L. Matheny
Justin L. Matheny